

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 94-254
(Reopened)

August 4, 1998

FREDERIC A. PEASE V. NEW ENGLAND
TELEPHONE AND TELEGRAPH COMPANY
D/B/A NYNEX
Complaint Requesting Commission
Investigation of the Level of
Revenues Being Earned by NYNEX
and Determination of Whether Toll
and Local Rates Should be Reduced

ORDER

WELCH, Chairman; NUGENT Commissioner

I. SUMMARY

In this Order, we direct our School and Library Network Advisory Board (Advisory Board) to propose a plan to implement a "Circuit Rider" service to address problems and training at individual sites. We also ask the Board to provide cost information for sites demonstrating a need for bandwidth greater than 56 kbps. At this time, we decide not to amend that portion of our May 15, 1995 Order that requires any excess funds to be used to reduce toll rates. We may further consider this issue as we learn more about the implementation of the Federal E-Rate program, gather information in our future Universal Service Fund inquiry, and assess any new activities implemented by our Advisory Board. Therefore, we close this docket.

II. BACKGROUND

On April 21, 1998, we reopened this docket to consider how to treat funds that Bell Atlantic may not spend on behalf of schools and libraries. The April 21 Order sought comments on whether the \$10 million (approximate amount that will be unspent if project continues as currently designed through June 2000) in remaining funds should be used to reduce basic rates rather than toll rates as described in the original order. The April 21 Order noted that the Federal E-Rate may supplant the need for our state project after the year 2000. We also noted that needs may be met by exercising our authority under 35-A M.R.S.A. § 7104, applicable to all carriers not just Bell Atlantic. We invited interested persons to file comments or other recommendations by May 4, 1998. The comments received are summarized below in Part III.

On June 4, the Hearing Examiner issued a procedural order soliciting further comments based on the comments received in response to the April 21 Order and establishing a hearing on July 1, 1998 to receive oral comments. The Procedural Order specifically asked parties to comment on:

1. whether schools and libraries needed additional technical assistance to file E-Rate applications;
2. whether a "Swat Team" approach (sending 1-2 technicians to sites experiencing speed or other technical problems) for diagnoses and advice would be useful;
3. whether training at individual sites would be useful and to develop what competencies; and
4. whether excess funds should be spent to expand or change basic calling areas.

III. SUMMARY OF WRITTEN AND HEARINGS COMMENTS

A. Comments in Response to April 21 Order

The Commission received more than 150 comments in response to the Order reopening this Docket. Almost all were from representatives of schools and libraries urging that any remaining funds be spent on behalf of schools and libraries for faster speed connections, more training and more computers. The Public Advocate (OPA) and the American Association of Retired Persons (AARP) urged that any excess be used to reduce basic rates. Bell Atlantic claimed that whatever "excess" revenues may have existed in 1995, the recent reductions in toll and access rates far exceeded the amounts earmarked for schools and libraries, so no further reductions in Bell Atlantic's rates were appropriate.

B. Comments in Response to June 4 Procedural Order

Fourteen libraries submitted letters. These letters follow a similar format and made three major points: 1) E-Rate is not "germane" to Maine's School and Library Network, E-Rate should be addressed in another forum (and noting that it is currently being intensively debated at the Federal level); 2) use excess funds to evaluate and upgrade inside wiring, out-of-date software, and inadequate hardware as determined by the Advisory Board and the University of Maine; and 3) support the "Swat Team" concept and conduct on-site end-user training using mobile computer labs funded by this Project. Other libraries commented on the need for inside wiring and more computers and software,

both for library patrons and to assist library employees. Examples of training included: managing e-mail; transferring files; downloading new versions of software; and technology management. Most commenters stated no need for assistance in filing E-Rate applications. All encouraged that any excess funds be used to benefit schools and libraries and not to reduce basic rates.

The Telephone Association of Maine, representing independent telephone companies, expressed concern that any changes affecting basic calling areas take place in a Chapter 204 rulemaking rather than this Docket.

Bell Atlantic stated that it did not object to spending additional funds up to the \$4 million per year for needed services, features or training. It objected, however, to reducing basic rates.

The Public Advocate recommended any excess funds be used to reduce local rates. OPA objected to additional spending to assist with E-Rate applications. OPA supported a "SWAT Team" approach to provide individual solutions to problems. The goal of the team should also be to help the site to become self-sufficient. The OPA opposed continued training on how to use the Internet. It also opposed using the funds to expand basic calling areas, particularly since most calling area problems occur outside Bell Atlantic's service territory.

Representative Lois Snowe-Mello urged spending the entire \$20 million on behalf of schools and libraries.

Others filed written comments and testified on July 1, 1998. Their comments are included in the summary of oral comments in the following section.

C. Summary of Oral Comments Received at the July 1, 1998 Hearing

The Department of Education (Ray Poulin) and State Library (Gary Nichols) testified that the remaining \$10 million should be dedicated to "revising the configuration and increasing the bandwidth of the Network." They suggested that the Commission order Bell Atlantic and school and library representatives to develop, in collaboration with the MSLN Advisory Board and the recently formed Education Technology and Distance Learning Board, a plan for this purpose. They further suggested that if the Commission decides costs should be spread among all carriers beyond Bell Atlantic, it should establish a State telecommunications access fund pursuant to 35-A M.R.S.A. § 7104(A).

Ann Carabia representing the Maine Education Association, Maine Library Association and Maine Library Commission explained that they originally agreed to 56 Kbps connections because Bell Atlantic represented that this was the highest speed that could be purchased for \$20 million. They recognized at that time that some sites would need greater speeds. Training is needed so that libraries can better work with the public. They believe business rates still need to be reduced and local calling areas expanded.

Mary Weiss representing Maine Seniors Technology Coalition advocated for more end-user training at libraries, particularly to allow senior citizens access to the internet.

Senator Treat testified that: 1) the goals of the project have not been met because there remain significant needs including greater bandwidth, training, computers, internal wiring, and software such as firewall and security protections; 2) E-Rate will not likely fill any of these identified needs due to uncertainties associated with the program; and 3) the Commission need not act today on any "excess" funds. Senator Treat also read the comments of the library and media coordinator of the Winthrop Schools about his problems with the E-Rate program.

Chris Gibson, Library and Media Specialist Technology Coordinator at MSAD 16 testified about the need for greater bandwidth and training so that teachers and students can effectively use the Internet. Jack Mara from SAD 11 provided similar comments.

Paul Shroeder testified that the original purpose of the program as a jump start, has largely been accomplished (just earlier than anticipated). He suggested that after 2000 there should be a regulated, discounted rates for a range of services to public service institutions, with sites using E-Rate or other legislated subsidies to bring the price down even lower. He also urged changes in local calling areas.

Nancy Crowell representing the Scarborough Public Library testified about the uncertainty of relying on the E-Rate and the need to find solutions to slow speed problems. She also supported additional training for both staff and users. She suggested that grants be awarded to individual communities to address needs identified locally including software and hardware upgrades, furniture, networks. Elizabeth Hewes from the Patton Free Library in Bath encouraged funds be used for onsite training.

IV. DECISION

We appreciate the effort made by all who commented either in writing or during the hearing. The information gathered helped focus our attention on those areas of the School and Library Network that may need fine-tuning. We also conclude that it is not necessary to decide, at this time, how any excess funds should be returned to ratepayers. After the activities described below take place, we will be able to better determine what funds remain and how they should be used. We also believe having more information about the implementation of the Federal E-Rate program will be important in informing our decision.

A. "Circuit Rider" Assistance

Some commenters expressed concern about slow speeds on the Internet and suggested that any remaining funds be used to pay for higher speed connections to the Internet. Our School and Library Advisory Board has been examining the speed issue over the past six months. It appears there are myriad reasons why speeds may be slow. Gerry Dube, Director of Technology Services for the University of Maine System Network, testified that more than sufficient capacity exists in the MSLN backbone provided through the University of Maine. The University examined sites that had complained of slowness and found that complaints were due to everything from inadequate inside wiring, and out-of-date software, to misuse of a school website that was overloading its connection with incoming traffic. There are, however, some sites that during some part of the day are fully using their 56 kbps capacity. The University is encouraging sites to better manage their traffic to free up capacity. There are also speed problems beyond Maine's borders that cannot be controlled by MSLN.

We agree that site visits by individuals with knowledge about software, hardware and training should be able to diagnose the source of problems and provide a means for addressing certain problems. We direct the Advisory Board to provide us with a proposal to implement a "circuit rider" service to be available by this fall. The proposal should include projected costs.

B. Increase in Bandwidth

As noted above, some sites are making maximum use of their 56 kbps connection. The Advisory Board should determine which sites are experiencing significant speed problems due to the size of their connections (as opposed to other problems) or have specific plans (with funding to match--i.e., funds in a finally approved budget) which likely will cause them to exceed the capacity of their 56 kbps connection within the next 18 months. The Board should offer a proposal for a limited upgrade

of only those sites with a demonstrated or reliably projected need. The Board should determine what would be the incremental cost of upgrading such sites to 384 kbps or T-1 connections and propose a plan for allowing such upgrades. After reviewing the proposal, we will consider whether offering greater bandwidth is reasonable considering the cost and other relevant factors.

C. Computers, Inside Wiring, Training

We will not expand the current eligibility requirements for computer grants. The project offers a \$2,000 or \$600 grant to sites that do not have at least one computer with sufficient capacity to operate with a 56 kbps connection. Although schools and libraries may need additional computers, we believe providing additional computers goes beyond the scope of our original purpose in this docket: "to provide schools and libraries a minimum level of connection to high capacity services at the lowest cost to NYNEX's [Bell Atlantic's] customers." Docket No. 96-900, Order at 3 (May 16, 1996). Nor do we believe ratepayers funds should be expended on inside wiring or furniture. Our primary objective is to provide a useable "pipeline" into the school or library, with the site being responsible for changes or additions needed within the site.

Any additional training will be limited to that provided through the "circuit rider" service. The circuit rider will assist librarians or school technology coordinators to better use their network connections. Training teachers to integrate internet technology into curriculum or training library patrons to use the internet is beyond the scope of this project. We have already offered every school and library the opportunity to send two persons to basic end-user training during both 1997 and 1998. Any school or library that has yet to participate should contact Bell Atlantic at 1-800-315-0633 for information on upcoming sessions.

D. Future Funding to Benefit Schools and Libraries

As we learned from the various commenters, much remains unknown about what telecommunication services schools and libraries will need in the future. We must determine what role, if any, the utilities we regulate will play in offering services and rates to schools and libraries. Initially, we will examine the issue of the need for an assessment on all telecommunication carriers as part of a universal services fund inquiry to begin this year. We also expect to receive advice from our Advisory Board on how best to manage the transition when the funding we ordered in this Docket ends in June 2000.

Therefore, we

O R D E R

1. The School and Library Network Advisory Board to submit a plan for implementing the "circuit rider" service described in the body of this Order;
2. The School and Library Network Advisory Board to propose eligibility criteria for upgrading sites with a demonstrated need for connection speeds in excess of 56 kbps, along with cost estimates, as described in the body of this Order;
3. The Administrative Director to send copies of this Order to all parties in Docket No. 94-254 and all those who commented in this reopened docket; and
4. The Administrative Director to close this Docket.

Dated at Augusta, Maine this 4th day of August, 1998.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of adjudicatory proceedings are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 6(N) of the Commission's Rules of Practice and Procedure (65-407 C.M.R.11) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which consideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note:The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.